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**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER RESOURCES**

6th Floor, 401 Church Street  
Nashville, Tennessee 37243

January 8, 2013

Mr. W.R. McClanahan, P.E.  
Director and City Engineer  
City of Bartlett  
6382 Stage Road  
Bartlett, TN 38134-3739

RE: Request for Clarification, Paragraph 4.2.5.7 of the State of Tennessee NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4)

Dear Mr. McClanahan:

We appreciate the opportunity to meet with you, Mayor McDonald, Mr. Brown and Mr. Fent on December 11, 2012 to discuss concerns the City of Bartlett has about the current MS4 permit. Subsequent to the meeting the Memphis Environmental Field Office, Division of Water Resources, received a letter from you dated December 18, 2012, formally requesting clarification regarding Section 4.2.5.7 of the Small Municipal Separate Storm Sewer System Permit. The letter asked for concurrences regarding three statements made by the City, as follows:

- 1) It is our position that paragraph 4.2.5.7 requiring inspections does not apply to existing developments and redevelopments.
- 2) It is our position that paragraph 4.2.5.7 requiring inspections only applies to permanent storm water management BMPs installed and implemented to meet the performance standards of paragraph 4.2.5.2 involving green infrastructure.
- 3) It is our position that the requirements of paragraph 4.2.5.7 requiring inspections become effective four years after coverage under the MS4 general permit and the owner/operator annual and five year inspections are not required until that time.

The Division would like to first provide some overall information regarding Section 4.2.5 of the Phase II Small MS4 permit. Section 4.2.5 pertains to Permanent Stormwater Management in New Development and Redevelopment. Paragraph (or section) 4.2.5.7 is a sub-section under Section 4.2.5. The permit requires each MS4 covered under this permit to develop, implement, and enforce a program to address permanent (post-construction) stormwater runoff management from new and redevelopment projects. The program is to ensure that controls are in place that would prevent or minimize water quality impacts. The MS4 is to develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs). The goals of the implemented BMPs are to reduce runoff and remove pollutants. The MS4 must require that new development and redevelopment sites be managed such that post-development hydrology does not exceed the pre-development hydrology in accordance with the performance standards contained in Section 4.2.5. The permit provides detailed information regarding how the runoff reduction and/or pollutant removal should be accomplished and alternatives (off-site mitigation and/or payment into a fund for public stormwater projects) if runoff reduction and/or pollutant removal cannot be fully accomplished on-site.

Section 4.2.5.3 of the MS4 permit states that MS4s which had coverage under the Phase II MS4 permit prior to the issuance of this permit (which is the case for the City of Bartlett) shall update codes and ordinances within 48 months of coverage under the permit. The City of Bartlett was issued coverage under the current MS4 permit on April 11, 2011. Therefore, before April 11, 2015, the City of Bartlett is required to make revisions to ordinances or other regulatory mechanisms to meet the requirements set forth in Section 4.2.5. Until the revisions to the ordinances are officially made, the City of Bartlett should continue to implement and enforce its existing ordinances or other regulatory mechanisms that address post-construction runoff from new development and redevelopment, which were put in place as required by the previous permit (issued January 2003, expired February 2008).

Therefore, to address your specific questions the Division is providing the following comments.

- Regarding statement number 1: Requirements of Section 4.2.5.7 will apply only to development and redevelopment projects which are constructed after your ordinance revisions are officially passed and become effective. Therefore, we concur with your assessment that Section 4.2.5.7 does not apply to any existing post-development BMPs.

- Regarding statement number 2: Inspection requirements contained within Section 4.2.5.7 pertain to the owner or operator of the post-development stormwater management practice. The stormwater management practice is the BMP that is installed to fulfill Section 4.2.5.2. Therefore, we concur that Section 4.2.5.7 applies only to permanent stormwater BMPs installed/implemented to meet the performance standards of Section 4.2.5.2.
- Regarding statement number 3: As stated previously, the City of Bartlett shall update codes and ordinances before April 11, 2015 to fulfill the requirements of Section 4.2.5. The inspections to be conducted by the post-development BMP owner/operator commence after the ordinances are effective and after the BMP is implemented/installed and functioning. Therefore, the commencement of inspections depends on when your ordinances become effective and when a BMP is functioning.

We hope that this letter has provided the clarification requested; however, if further clarification is necessary, please don't hesitate to contact us. The Division would like to continue open communication efforts with you to hopefully resolve any questions and/or concerns that you might have. Upon reviewing this letter, please contact Terry Templeton (901-371-3018) or Joellyn Brazile (901-371-3025) at the Memphis Environmental Field Office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Dudley".

Sandra Dudley, P.E., Ph.D.  
Director

cc: TDEC/DWR/MEFO  
TDEC/DWR/NCO

cc: Alan Schwendimann, Chief Deputy Director  
Robert Karesh, Stormwater Program Coordinator

